

PHILLIP C. SAMOURIS, ESQ. (Bar No. 163303)  
 samouris@higgslaw.com  
 MICHAEL J. HOISINGTON, ESQ. (Bar No. 201679)  
 mhoisington@higgslaw.com  
 HIGGS FLETCHER & MACK LLP  
 401 West "A" Street, Suite 2600  
 San Diego, CA 92101-7913  
 TEL: 619.236.1551  
 FAX: 619.696.1410

Attorneys for Plaintiff  
 CannaVest Corporation

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

CannaVest Corporation, a Nevada  
 corporation,

Plaintiff,

v.

Kannaway, LLC, a California limited  
 liability company; et. al,

Defendant.

CASE NO. 14-cv-02160-CAB-BLM

**PLAINTIFF'S OBJECTION TO  
 EVIDENCE SUBMITTED BY  
 DEFENDANTS IN CONNECTION  
 WITH THE AMOUNT OF THE  
 PRELIMINARY INJUNCTION  
 BOND [DOC. NO. 24]**

Hearing Date: February 12, 2015

Dept: 4C

Judge: Hon. Cathy A. Bencivengo

Plaintiff Cannavest Corporation ("Plaintiff") hereby objects to the following  
 evidence offered by defendants in connection with the amount of the bond, if any,  
 that the Court will require on the preliminary injunction sought by Plaintiff:

**DECLARATION OF MICHELLE SIDES**

**(Doc. No. 24)**

EVIDENCE	OBJECTION
¶ 1 "I am the principal of Kannaway, LLC, Defendant in the above entitled action."	Lacks foundation and is conclusory. [FRE 602.] Limited liability companies have "members" and "managers". See <i>Cal. Corp. Code</i> § 17704.07 (a)-(c).

1		Declarant does not describe her position
2		as a “principal” or her role within the
3		LLC, and therefore her testimony has
4		no foundation.
5	¶¶ 5-7 and Exhibits A and B—the	Hearsay, lacks foundation, improper
6	information supposedly from “Houlihan	opinion testimony, speculation,
7	Capital”.	assumes facts not in evidence, and does
8		not fulfill the requirements of a proper
9		declaration because the declarant does
10		not have personal knowledge.
11		[FRE 602 and 802.] Declarant admits
12		that she did not draft the documents
13		attached as Exhibits A and B which are
14		characterized as a “Fairness Opinion”.
15		Importantly, the documents state clearly
16		that no independent verification of any
17		facts was performed by the preparer and
18		that the preparer relied on information
19		supplied by others in forming its
20		opinion. Moreover, the due diligence
21		section of the presentation does not
22		reference Plaintiff’s trademark
23		infringement claim which is the subject
24		of the present case. Thus, the
25		documents are unreliable.
26		
27		
28		

¶8, Exhibit C

Lacks foundation, improper opinion testimony, speculation, assumes facts not in evidence, and does not fulfill the requirements of a proper declaration because it is conclusory and lacks specifics. [FRE 602 and 802.]

Declarant's testimony does not match up with the numbers provided in Exhibit C. Exhibit C is not properly formatted and is unintelligible. There are large numbers associated with some products that could be sales, but no indication on how many units sold, the per-unit price or the source of the numbers. Neither the Declaration nor the exhibit provides any data regarding how the Defendant arrived at an alleged profit of \$117,000 per month on the accused products, or how many of what type of products it has on hand adding up to \$2,250,000.

¶ 9 and Exhibit D.

Lacks foundation, improper opinion testimony, speculation, assumes facts not in evidence, and does not fulfill the requirements of a proper declaration because it is conclusory and lacks specifics. [FRE 602 and 802.] The

1 data has no context – no facts to support  
2 the numbers related to its expansion.  
3 Exhibit D is not properly formatted, is  
4 unintelligible and does not support the  
5 potential losses referenced in the  
6 declaration.  
7

8 **CONCLUSION**

9 Based on the foregoing, Plaintiff respectfully asks that the Court sustain these  
10 objections and strike the portions of Ms. Sides' testimony and the exhibits thereto  
11 set forth above.

12  
13 DATED: February 24, 2015

HIGGS FLETCHER & MACK LLP

14 By: /s/Phillip C. Samouris  
15 PHILLIP C. SAMOURIS, ESQ.  
16 MICHAEL J. HOISINGTON, ESQ.  
17 Attorneys for Plaintiff  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28